

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ASHWANI BHAKHRI,

Plaintiff,

v.

RAY RUIZ,

Defendant.

Case No.17-cv-00740-JSC

**ORDER GRANTING DEFENDANT'S
APPLICATION TO PROCEED IN
FORMA PAUPERIS, AND ORDER TO
DEFENDANT TO SHOW CAUSE AS TO
WHY THIS CASE SHOULD NOT BE
REMANDED TO STATE COURT**

Defendant Ray Ruiz, proceeding pro se and *in forma pauperis*, removed this unlawful detainer action to federal court. Defendant invokes federal subject matter jurisdiction under 28 U.S.C. §§ 1331, 1441(b). As an initial matter, Mr. Ruiz has filed an application to proceed in forma pauperis, which is GRANTED. (Dkt. No. 2.) The Court, however, ORDERS Mr. Ruiz to show cause as to why this case should not be remanded to the Alameda County Superior Court for lack of subject matter jurisdiction.

A defendant may remove an action from state court to federal court so long as the federal court has original jurisdiction. 28 U.S.C. § 1441(a). Federal subject matter jurisdiction under 28 U.S.C. § 1332(a)(1) requires complete diversity of citizenship and an amount in controversy in excess of \$75,000. Federal subject matter jurisdiction under 28 U.S.C. § 1331 requires a civil action to arise under the constitution, laws, or treaties of the United States. A claim “arises under” federal law only if a “well-pleaded complaint” alleges a cause of action based on federal law—“an actual or anticipated defense” does not confer federal jurisdiction. *Vaden v. Discover Bank*, 556 U.S. 49, 60 (2009). The defendant seeking removal “bears the burden of establishing

that removal is proper” and the “removal statute is strictly construed against removal jurisdiction.” *Provincial Gov’t of Marinduque v. Placer Dome, Inc.*, 582 F.3d 1083, 1087 (9th Cir. 2009). Further, when a case is removed to federal court, the court has an independent obligation to satisfy itself that it has federal subject matter jurisdiction. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004). A case removed to federal court must be remanded back to state court “if at any time before final judgment it appears that the district court lacks subject matter jurisdiction.” 28 U.S.C. § 1447(c).

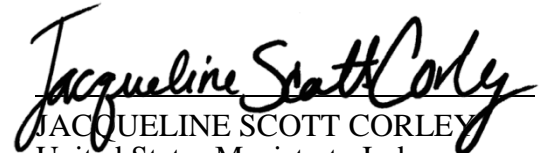
Here, Mr. Ruiz bases removal on federal question jurisdiction. However, the removed complaint makes only a state-law claim for unlawful detainer. “[F]ederal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 393 (1987); *see also U.S. Bank Nat’l Ass’n v. Terrenal*, No. 12–5540, 2013 WL 124355, at *2 (N.D. Cal. Jan. 8, 2013) (finding “no basis for asserting federal claim jurisdiction” where “[t]he complaint asserts only one state law claim for unlawful detainer”).

Nor does it appear that the amount in controversy meets the jurisdictional threshold of \$75,000.00 for diversity jurisdiction. 28 U.S.C. §§ 1441(b) & 1332(a); *see also* Dkt. No. 1 at 6 (stating that the amount at issue is less than \$25,000). Further, only non-resident defendants can effect removal based on diversity jurisdiction. *See* 28 U.S.C. § 1441(b); *Spencer v. U.S. Dist. Ct. for Northern Dist. (Altec Indus., Inc.)*, 393 F.3d 86, 87 (9th Cir. 2004). Once any “local defendant (a citizen of the forum state) has been served, the action cannot be removed by that defendant, or by any other defendant.” *Republic W. Ins. Co. v. Int’l Ins. Co.*, 765 F. Supp. 628, 629 (N.D. Cal. 1991) (internal quotation marks omitted). Here, the civil cover sheet alleges that Mr. Ruiz resides in Alameda County and is therefore a citizen of California. (Dkt. No. 1-1 at 1.) As Mr. Ruiz is a “local” defendant, removal is improper on this basis as well.

In light of the foregoing, the Court ORDERS the Mr. Ruiz to SHOW CAUSE as to why this action should not be remanded to state court. Mr. Ruiz shall respond to this Order in writing by **March 10, 2017**. Failure to respond may result in remand of this case to Alameda County Superior Court.

IT IS SO ORDERED.

Dated: February 17, 2017


JACQUELINE SCOTT CORLEY
United States Magistrate Judge

United States District Court
Northern District of California